

Honolulu, Hawaii

APR 30 2015

RE: S.B. No. 265  
S.D. 1  
H.D. 1  
C.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 265, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SEX TRAFFICKING,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to:

- (1) Amend the offense of promoting prostitution in the first degree by:
  - (A) Replacing "promoting prostitution in the first degree" with "sex trafficking";
  - (B) Establishing that a person commits the offense of sex trafficking if the person knowingly advances prostitution by compelling or inducing a person to engage in prostitution or profits from such conduct



by another under certain coercive circumstances, or advances or profits from prostitution of a person less than eighteen years old; and

- (C) Making conforming amendments to reflect the change from "promoting prostitution in the first degree" to "sex trafficking";
- (2) Include the offense of sex trafficking in the Department of the Attorney General's statewide witness program;
- (3) Include the offense of sex trafficking in the list of violent crimes for which victims may be eligible for criminal injury compensation;
- (4) Amend portions of certain sections, subsections, and a definition in chapter 663J, Hawaii Revised Statutes, relating to civil liability in specific cases of coercion into prostitution;
- (5) Remove the statute of limitations for the offense of sex trafficking;
- (6) Amend the title of part I of chapter 712, Hawaii Revised Statutes, to include sex trafficking;
- (7) Amend the penalty for the offense of prostitution by:
  - (A) Establishing a class C felony if a person who paid, agreed to pay, or offered to pay a fee to engage in sexual conduct with another person did so in reckless disregard of the fact that the other person was or is a victim of sex trafficking; and
  - (B) Establishing a violation if the person who engaged in, or agreed or offered to engage in, sexual conduct with another person for a fee was less than eighteen years of age at the time of the offense;
- (8) Amend the offense of promoting prostitution in the second degree by:
  - (A) Replacing "promoting prostitution in the second degree" with "promoting prostitution"; and



- (B) Clarifying that a person commits the offense of promoting prostitution if the person knowingly advances or profits from prostitution of a person eighteen years of age or older;
- (9) Specify that a motion to vacate a conviction of certain prostitution offenses under section 712-1209.6, Hawaii Revised Statutes, does not apply to the offense of sex trafficking and add a definition of "victim of trafficking" to that section;
- (10) Include the offense of sex trafficking in the list of covered offenses for which property is subject to forfeiture;
- (11) Add the offense of sex trafficking to the list of crimes for which an order to intercept wire, oral, or electronic communications is permitted;
- (12) Make a conforming amendment to section 846E-10(c), Hawaii Revised Statutes, relating to tier 2 offenses for the registration of sex offenders; and
- (13) Include the offense of sex trafficking in the list of offenses to which deferred acceptance of guilty plea or nolo contendere plea does not apply.

Your Committee on Conference finds that national organizations have rated Hawaii highly for its laws against sex trafficking. Hawaii received the top "Tier One" rating by Polaris in its 2014 state reports. Only eleven other states have received this rating. However, your Committee on Conference further finds that the existing laws relating to prostitution and promoting prostitution may not be suitable to address certain circumstances in which coercion or other inability to consent is present. This measure uses the existing framework of laws pertaining to the promotion of prostitution by means of coercion to more appropriately title these unlawful acts as "sex trafficking".

Your Committee on Conference has amended this measure by:

- (1) Deleting language that:
  - (A) Removes the statute of limitations for the offense of sex trafficking; and



- (B) Establishes a class C felony under the offense of prostitution if a person who paid, agreed to pay, or offered to pay a fee to engage in sexual conduct with another person did so in reckless disregard of the fact that the other person was or is a victim of sex trafficking;
- (2) Amending section 712-1202(1), Hawaii Revised Statutes, to:
  - (A) Reinstate language that requires that the advancement of prostitution be compelled or induced by force, threat, fraud, or intimidation in order to constitute sex trafficking and defines the terms fraud and threat; and
  - (B) Delete threat and intimidation from the list of certain coercive means by which a person may knowingly advance prostitution in order to constitute sex trafficking; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 265, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 265, S.D. 1, H.D. 1, C.D. 1.

Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

*Karl Rhoads*

KARL RHOADS, Chair

*Gilbert S.C. Keith-Agaran*

GILBERT S.C. KEITH-AGARAN, Chair



# Hawaii State Legislature

CCR 40

## Record of Votes of a Conference Committee

|   |   |    |   |   |  |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
|---|---|----|---|---|--|---|----|---|---|---------|--|--|--|--|-------------|--|--|--|--|
| Bill / Concurrent Resolution No.:<br><b>SB 265, SD 1, HD 1</b>  |   |    |   |   | Date/Time: <u>4/30/15</u> <u>2:20 PM</u>   |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
| <input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).            |   |    |   |   |  |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
| <input type="checkbox"/> The Committee is reconsidering its previous decision.  |   |    |   |   |  |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
| <input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure |   |    |   |   | <input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.  |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
| Senate Managers   | A | WR | N | E | House Managers   | A | WR | N | E |         |  |  |  |  |             |  |  |  |  |
| KEITH-AGARAN, Gilbert S.C., Chr.  | ✓ |    |   |   | RHOADS, Karl, Chr.   | ✓ |    |   |   |         |  |  |  |  |             |  |  |  |  |
| ESPERO, Will  | ✓ |    |   |   | SAN BUENAVENTURA, Joy A.   | ✓ |    |   |   |         |  |  |  |  |             |  |  |  |  |
| SHIMABUKURO, Maile S.L.   | ✓ |    |   |   | MCDERMOTT, Bob   |   |    |   | ✓ |         |  |  |  |  |             |  |  |  |  |
| THIELEN, Laura H.   | ✓ |    |   |   |  |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
| SLOM, Sam   |   |    |   | ✓ |  |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
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| TOTAL   | 4 | 0  | 0 | 1 | TOTAL  | 2 | 0  | 0 | 1 |         |  |  |  |  |             |  |  |  |  |
| A = Aye   |   |    |   |   | WR = Aye with Reservations   |   |    |   |   | N = Nay |  |  |  |  | E = Excused |  |  |  |  |
| Senate Recommendation is:   |   |    |   |   | House Recommendation is:   |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
| <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted  |   |    |   |   | <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted   |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
| Senate Lead Chair's or Designee's Signature:  |   |    |   |   | House Lead Chair's or Designee's Signature:  |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
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| Distribution: <span style="margin-left: 50px;">Original</span>  |   |    |   |   | <span style="margin-left: 50px;">Yellow</span> <span style="margin-left: 50px;">Pink</span> <span style="margin-left: 50px;">Goldenrod</span>                                      |   |    |   |   |         |  |  |  |  |             |  |  |  |  |
| File with Conference Committee Report   |   |    |   |   | <span style="margin-left: 50px;">House Clerk's Office</span> <span style="margin-left: 50px;">Senate Clerk's Office</span> <span style="margin-left: 50px;">Drafting Agency</span> |   |    |   |   |         |  |  |  |  |             |  |  |  |  |